

**CITY OF FOLEY, ALABAMA
ORDINANCE NO. _____**

**AN ORDINANCE REGULATING PARADES AND DEMONSTRATIONS
ON PUBLIC PROPERTY IN THE CITY OF FOLEY**

WHEREAS, the City Council of the City of Foley, Alabama deems it to be in the interest of public safety and for the benefit of its citizens for the City to amend existing regulations and to create new regulations regulating parades and demonstrations on public property;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOLEY, ALABAMA AS FOLLOWS:

SECTION 1. DEFINITIONS

For purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning herein ascribed. Unless inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural; and words of any particular gender include the other gender. The word “shall” is always mandatory and not merely directory.

1. “Police Chief” shall mean the then serving or acting Chief of Police of the City of Foley, Alabama or his designee.
2. “Parade / Demonstration” shall mean any march, ceremony, show, exhibition, pageant, footrace, procession, protest, demonstration, rally, picketing, assembly, convention, or similar conduct, in or upon any street or other public place in the City of Foley which is expected to include or which actually includes at least twenty (20) people, counting all those present either to participate or witness the event.
3. “Parade / Demonstration Permit” shall mean a permit issued pursuant to this Ordinance to conditionally allow for a Parade / Demonstration.

SECTION 2. PERMIT REQUIRED

No person or entity shall engage in, participate in, aid, form, join, incite, continue, organize, or start any Parade / Demonstration unless a Parade / Demonstration Permit has first been obtained from the Police Chief, and no person or entity shall engage in, participate in, aid, form, join, incite, continue, organize, or start a Parade / Demonstration that exceeds, deviates from, or violates the scope, terms, conditions, or limitations on a Parade / Demonstration Permit.

SECTION 3. EXCEPTIONS TO PARADE/ DEMONSTRATION PERMIT REQUIREMENT

The advance Parade / Demonstration Permit requirement of this Ordinance shall not apply to the following:

1. Funeral processions.
2. Activities of a government agency acting within the scope of its governmental functions.
3. Activities conducted or held entirely within one of the City of Foley public parks pursuant to a Park Reservation Agreement with the City or held within the City of Foley Civic Center pursuant to a rental agreement; however, a Parade / Demonstration that happens to be held in a public park or civic center is not exempt from this Ordinance.

SECTION 4. APPLICATIONS FOR PERMITS

A person seeking a Parade / Demonstration Permit shall file an application with the Police Chief. The following requirements apply to applications for permits:

1. Filing period. An application for a Parade / Demonstration Permit shall be filed with the Police Chief not less than ten (10) days before the date on which the Parade / Demonstration is proposed or requested to take place.
2. Contents. The application for a Parade / Demonstration Permit shall set forth the following information:
 - a. The name, address, telephone number, facsimile number, and e-mail address of the person applying for the Parade / Demonstration Permit (the "Applicant").
 - b. If the Parade / Demonstration is proposed to be conducted by or on behalf of a person or organization other than the Applicant, the name, address, and telephone number of the person or organization on whose behalf the Parade / Demonstration is being organized (the "Organizer").
 - c. The name, address and mobile telephone number of the person who shall be present at all times during the Parade / Demonstration and who shall be primarily responsible for the activities at the Parade / Demonstration regarding compliance with laws, this Ordinance, and the Parade / Demonstration Permit's terms and conditions (the "Event Manager").
 - d. The date when the Parade / Demonstration is to be conducted.

- e. The time at which the Parade / Demonstration will start and terminate.
- f. The proposed location of the Parade / Demonstration including, if applicable, the route over which it will travel or otherwise utilize.
- g. If applicable, a statement as to whether the parade / demonstration will occupy all or only a portion of the width of the streets proposed to be traveled or otherwise utilized.
- h. The location of any proposed assembly areas for the Parade / Demonstration.
- i. If applicable, the time at which units of the Parade / Demonstration will begin to assemble at any such proposed assembly areas.
- j. If applicable, the location, number and size of signs to be exhibited during the Parade / Demonstration.
- k. If applicable, the location, number, and description of booths, stands, tables, or other similar items to be used during the Parade / Demonstration.
- l. Whether the parade / demonstration will involve the use of amplified music, microphones, megaphones or other sound amplification devices and a description of such devices.
- m. An estimate of the number of people that will participate in the Parade / demonstration, and an estimate of the number of people who will observe or witness the Parade / Demonstration.
- n. If the proposed Parade / Demonstration is to be held by or on behalf of any person or entity other than the applicant, the applicant shall submit written proof of their authority to apply for the Parade / Demonstration Permit on behalf of the other person or entity.

SECTION 5. STANDARDS FOR ISSUANCE OF PERMITS

The Police Chief shall issue a Parade / Demonstration Permit when, from a consideration of the application and from such other information as may otherwise be obtained, he or she finds that:

- 1. The conduct of the Parade / Demonstration will not substantially interrupt the safe and orderly movement of vehicular or pedestrian traffic in the rights-of-way, streets, or sidewalks.
- 2. The conduct of the Parade / Demonstration will not require the diversion of such a number of Police officers or law enforcement resources so as to prevent normal and acceptable levels of Police and law enforcement protection in the City.

3. The conduct of the Parade / Demonstration will not require the diversion of such a number of ambulances, paramedics, and/or other emergency medical resources so as to prevent normal and acceptable levels of emergency medical services in the City.
4. The concentration of persons, animals and vehicles at assembly points of the Parade / Permit will not unduly interfere with proper fire, police, medical, or other emergency services in the City.
5. The conduct of the Parade / Demonstration will not interfere with the movement of firefighting equipment as coordinated with the fire department by the police department.
6. The conduct of the Parade / Demonstration is not reasonably likely to proximately cause injury to persons or property or to provoke disorderly conduct.
7. If applicable, the Parade / Demonstration is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delay.
8. The Parade / Demonstration is not to be held for the sole purpose of advertising any product, goods or event, and is not designed to be held purely for private profit.
9. The Parade / Demonstration will not violate any federal, state, or local law, ordinance or regulation.

The Police Chief, if he deems necessary, may require the applicant to designate a certain number of additional people who, along with the Event Manager, shall be responsible for conducting the Parade / Demonstration in an orderly manner in compliance with the Parade / Demonstration Permit and other laws and regulations ("Event Marshalls").

SECTION 6. APPROVING PARADE RELEASE AND AGREEMENT

The City of Foley's insurance coverage through AMIC does not cover parades sponsored by organizations or individuals and will only cover city vehicles and city personnel. The following "Parade Release and Agreement" is needed to indemnify the City if an accident occurred. The people required to sign the "Parade Release and Agreement" are as follows:

1. Anyone who will be operating a vehicle in the parade
2. Anyone who owns a vehicle that will be in the parade
3. Anyone riding on a float; and
4. Anyone riding on a horse, mule, or animal belonging to the equine family with the exception of law enforcement mounted units.

SECTION 7. NOTICE OF REJECTION OF PERMIT APPLICATION

The Police Chief shall either (1) grant the application as submitted; (2) grant the application with certain amendments, conditions, or changes; or (3) deny the application. The Police Chief, shall communicate his decision and the reasons for his decision in writing to the Applicant and to the City Clerk of the City of Foley by facsimile (when available), e-mail (when available), and by depositing in the U.S. Mail within four (4) days after a completed application has been submitted.

SECTION 8. ALTERNATIVE PERMIT

The Police Chief, or the Mayor on appeal, shall be empowered to authorize the conduct of the requested Parade / Demonstration on a date, at a time, over a route, or in a location different from that requested by the Applicant rather than denying the application. An Applicant desiring to accept the alternative Parade / Demonstration Permit shall, at least two (2) days prior to the date of the Parade / Demonstration permitted by the alternative Permit, file a written notice of acceptance with the Police Chief.

SECTION 9. APPEAL PROCEDURE

Any person aggrieved by the decision of the Police Chief (e.g., Applicant, Organizer, or any citizen, property owner, or business owner in the City) shall have the right to appeal to the Mayor of the City of Foley. The Mayor shall confer with the Police Chief, the appealing party, and any other party wishing to be heard on the issue and make a decision either (1) affirming the decision of the Police Chief; (2) affirming the decision of the Police Chief with certain changes, amendments, or additional conditions; or (3) reversing the decision of the Police Chief entirely. The Mayor's review of the Police Chief's decision shall be de novo and based on the same criteria for issuing the Parade / Demonstration Permit. The Mayor shall communicate his decision in writing to the appealing party, the Applicant (if different), and to the City Clerk of the City of Foley by facsimile (when available), e-mail (when available), and by depositing in the U.S. Mail within six (6) days of receiving notice of the appeal.

SECTION 10. NOTICE TO CITY OFFICIALS

Promptly upon the issuance of a Parade / Demonstration Permit, the Police Chief, or the Mayor on appeal, shall send a copy of the application and the Parade / Demonstration Permit to the following:

1. The City Clerk
2. The Fire Chief
3. The Police Chief (if the Permit is issued by the Mayor on appeal)
4. The Mayor (if the Permit is issued by the Police Chief)

SECTION 11. CONTENTS OF PERMITS

Each Parade / Demonstration Permit shall contain the following information:

1. The names and telephone numbers of the Applicant and the Organizer.
2. The names and mobile telephone numbers of the Event Manager and any Event Marshalls (Marshalls – if designated as needed by the Police Chief).
3. The subject matter or general description of the Parade / Demonstration.
4. The location of the Parade/ Demonstration, including the streets or portions of the streets to be traveled or utilized, if applicable.
5. If applicable, the location of assembly and the date and time at which the Parade / Demonstration will begin to assemble.
6. Dates and times at which the Parade / Demonstration is to begin and end.
7. If applicable, the minimum speed at which the units of the Parade / Demonstration are to move.
8. If applicable, the maximum speed at which the units of the Parade / Demonstration are to move.
9. If applicable, the maximum interval of space to be maintained between the units of the Parade / Demonstration.
10. If applicable, the maximum length of the parade / Demonstration.
11. What articles will be hand carried, shown, displayed, or carried on the person of the participants during the event.
12. Such other information as the Police Chief, or designee, shall find necessary to the enforcement of this article.

SECTION 12. DUTIES OF PERMITEE

The Event Manager and each Event Marshall shall carry a copy of the Parade / Demonstration Permit at all times during the Parade / Demonstration. The Organizer shall be ultimately responsible for the Parade/ Demonstration and for its compliance with all the terms, limitations, and conditions of the Parade / Demonstration imposed by law and by the Parade / Demonstration Permit.

SECTION 13. PUBLIC CONDUCT DURING PARADES / DEMONSTRATION

No person shall unreasonably hamper, obstruct, impede, or interfere with any Parade / Demonstration which is lawfully being conducted in accordance with a Parade / Demonstration Permit.

The Police Chief, shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a route of a Parade / Demonstration, to order the removal of vehicles that are so parked, and to temporarily divert, block, or alter the flow of traffic to accommodate a Parade / Demonstration. If the Police Chief prohibits or restricts such parking, he shall post signs so stating and stating that vehicles are subject to removal. Such signs shall be posted in locations that are reasonably sufficient to give notice that parking is prohibited or restricted in the area in a sufficient amount of time prior to the Parade / Demonstration or the clearing of the route for the Parade / Demonstration.

SECTION 14. REVOCATION

The Police Chief, shall have the authority to immediately revoke a Parade / Demonstration Permit when it comes to his attention that the facts or circumstances surrounding the Parade / Demonstration are such that, using the original standards for issuance of a Parade / Demonstration Permit, he would not have granted the Parade / Demonstration Permit had he known or appreciated these facts or circumstances. Furthermore, the Police Chief, can immediately revoke a Parade / Demonstration Permit that he improperly or improvidently issued, and the Police Chief can immediately revoke or amend a Parade / Demonstration Permit he issued if the Parade / Demonstration is being conducted in a manner that violates the Parade / Demonstration Permit, if the event differs from the application, if the event becomes a public safety concern, or if the event or its participants violate any law or ordinance. Except as stated in a particular permit, nothing in this ordinance shall be construed to exempt parade participants from any other applicable law.

SECTION 15. PERMIT FEE

The Police Chief, shall condition the issuance of a Parade / Demonstration Permit on the Applicant paying a fee based upon the expected costs to the City of Foley for providing necessary traffic control, clean-up, equipment and personnel for the orderly and safe conduct of the Parade / Demonstration ("the Parade / Demonstration Fee"). Factors to be considered in setting the amount of the Parade/Demonstration Fee shall include the following: (1) the area in which the Parade / Demonstration is to be conducted, (2) the Parade / Demonstration's duration, (3) the estimated number of people who will participate or attend, (4) the number and location of any road closings or traffic detours, (5) the number and location of any parking space closings, (6) the date of the event and the anticipated traffic flow at the time of the Parade / Demonstration, and (7) any other factors or circumstances that could result in increased costs or lost revenues to the City of Foley. The amount of the Parade / Demonstration Fee shall not be based on the message conveyed.

SECTION 16. PUNISHMENT FOR VIOLATIONS.

Any person or entity violating any provision of this chapter shall, except as provided by law, be punished pursuant to Section 1-8 of the Code of Ordinances for the City of Foley.

PASSED, ADOPTED, AND ORDAINED on this the ____ day of _____, 2014.

Presiding Officer

Attest

City Clerk